



STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**Amended License for Diversion and Use of Water**

APPLICATION 14392  
Page 1 of 5

PERMIT 8814

LICENSE 5435

**THIS IS TO CERTIFY, That**

El Rancho Motel, Inc.  
c/o Paul Wilms  
2309 James Creek Road  
Pope Valley, CA 94567

has the right to the use of the waters of an **Unnamed Creek in Napa County**

tributary to **Burton Creek thence Pope Creek**

for the purpose of **Irrigation, Domestic, Stockwatering, Industrial, Recreational uses.**

Amended **License 5435** supersedes the license originally issued **January 28, 1959**, which was perfected in accordance with the laws of California, the regulations of the State Water Resources Control Board (SWRCB) or its predecessor, and the terms of **Permit 8814**. The priority of this right dates from **July 16, 1951**. Proof of maximum beneficial use of water under this license was made as of **October 9, 1956** (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed **16 acre-feet per annum to be collected from about November 1 of each year to about March 31 of the succeeding year. Maximum withdrawal in any one year has been 16 acre-feet.**

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

**THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:**

South 122 feet and East 475 feet from NW corner of Projected Section 20, T9N, R5W, MDB&M, being within NW¼ of NW¼ of said Projected Section 20.

**A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:**

Stockwatering and recreational uses at reservoir located within SE¼ of SE¼ of Projected Section 18, NE¼ of NE¼ of Section 19, and NW¼ of NW¼ of projected Section 20, T9N, R5W, MDB&M and domestic, industrial and irrigation of 30 acres net within a gross area of 150 acres described as follows and as shown on map filed with SWRCB:

NE¼ of SE¼, Projected Section 18, T9N, R5W, MDB&M, 10 acres  
SE¼ of SE¼, Projected Section 18, T9N, R5W, MDB&M, 30 acres  
SW¼ of SE¼, Projected Section 18, T9N, R5W, MDB&M, 8 acres  
NW¼ of NE¼, Projected Section 19, T9N, R5W, MDB&M, 20 acres  
NE¼ of NE¼, Projected Section 19, T9N, R5W, MDB&M, 35 acres  
NW¼ of NW¼, Projected Section 20, T9N, R5W, MDB&M, 25 acres  
SW¼ of NW¼, Projected Section 20, T9N, R5W, MDB&M, 10 acres  
SW¼ of SW¼, Projected Section 17, T9N, R5W, MDB&M, 12 acres

Licensee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

- (1) Licensee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this license for noncompliance with the terms of the Agreement.
- (2) The Court has appointed a watermaster to implement the provisions of the Agreement. The licensee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.
- (3) Licensee may employ existing methods or means of measurement (or alternatively any other standard means of measurement normally acceptable or satisfactory to the SWRCB in its administration of appropriative water rights) for determining the amount of water diverted to storage under this license, unless otherwise specified by the Agreement.
- (4) Licensee shall install at licensee's own cost such additional or other measurement devices as are necessary to measure actual depletions, if the watermaster determines that additional measures are necessary, consistent with Section 3.A.3 (Measuring Devices) of the Agreement.
- (5) Licensee shall report to the watermaster annually, on or about September 1, the amount of water diverted to storage under this license at the beginning and end of the Accumulation Season as required by the watermaster. Such annual reports shall be made in writing on forms approved by the watermaster.
- (6) The watermaster shall have the right to enter to inspect measuring equipment and to observe compliance with the terms and conditions of this license, upon 48-hour prior notice and upon such reasonable conditions as licensee may prescribe.
- (7) Licensee is hereby put on notice that there may be years when diversion of water under this license will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this license.
- (8) In the event Allowable Depletion is exceeded in any year, licensee shall release water diverted to storage to the extent necessary to bring the Allowable Depletion into compliance. Licensee's obligation to release water from storage shall be governed by the repayment provisions of the Agreement. (Agreement pp. 9, 10, and 11)
- (9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, licensee shall have three years, starting in the next Accumulation Season, to make up or repay licensee's excess diversion (2) does not reach 640,000 acre-feet of storage as of May 1, licensee shall have one year, starting in the next Accumulation Season, to make up or repay licensee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, licensee shall be excused from any further obligation for repayment of the overage.
- (10) Licensee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

- (11) Licensee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the license.
- (12) Licensee is hereby put on notice of licensee's right, upon reasonable prior notice, to inspect and to copy, at licensee's own expense, all records and reports of the watermaster.

Inclusion in the license of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this license.

(0000024)

The SWRCB shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this license to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995 Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

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*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.*

*Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.*

*Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.*

*The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

*The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.*

*If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.*

*This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD

*David R. Buringer*  
for **Edward C. Anton, Chief**  
**Division of Water Rights**

Dated: OCT 1 2002

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of License 5557 Application 13964  
**Floyd Pedersen**

**ORDER REVOKING LICENSE**

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SOURCE: Elk Grove Creek

COUNTY: Sacramento

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**WHEREAS:**

The licensee requests that the license be revoked. The licensee requested revocation on the Report of Licensee for 1997, 1998, 1999 dated December 1, 2001 and received by the Division of Water Rights (Division) on December 10, 2001. The licensee also requested revocation on the Report of Licensee for 1992, 1993, 1994 received by the Division on March 20, 1995. During a June 13, 2003 telephone conversation with Division staff, the licensee confirmed that the license should be revoked.

**THEREFORE:**

It is ordered that License 5557 is hereby revoked and cancelled upon the records of the State Water Resources Control Board and the water is declared to be subject to appropriation.



*Edward C. Anton, Chief  
Division of Water Rights*

Dated: **AUG 07 2003**

**MAILING LIST**

**REGULAR MAIL**

Floyd Pedersen  
9419 State Highway 70  
Marysville, CA 95901

Sacramento County Recorder  
600 8th Street  
P.O. Box 839  
Sacramento, CA 95812-0839

bcc: WT, TNS, Field File

TNSnyder:tns/itziar:6-23-03  
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STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
**DIVISION OF WATER RIGHTS**

**ORDER**

APPLICATION 14392

PERMIT 8814

LICENSE 5435

ORDER ALLOWING CHANGE IN PLACE OF USE

WHEREAS:

1. A petition has been received requesting change in place of use of water diverted under License 5435.
2. License 5435 was issued to Gordon R. Kirkpatrick and was filed with the County Recorder of Napa County on January 28, 1959.
3. Said License was subsequently assigned to Clamac Inc.
4. The State Water Resources Control Board has found that the change in place of use under said License 5435 for which said petition was submitted will not operate to the injury of any other legal user of water.
5. The Board has approved and allowed said change and has directed that an order be issued to describe said place of use in accordance with said petition.

NOW, THEREFORE, IT IS ORDERED that permission is hereby granted to change the place of use under said License 5435 to a place of use described as follows:



STOCKWATERING AND RECREATIONAL USES AT RESERVOIR LOCATED WITHIN  
SE $\frac{1}{4}$  OF SE $\frac{1}{4}$  OF PROJECTED SECTION 18, NE $\frac{1}{4}$  OF NE $\frac{1}{4}$  OF PROJECTED  
SECTION 19, AND NW $\frac{1}{4}$  OF NW $\frac{1}{4}$  OF PROJECTED SECTION 20, T9N, R5W,  
MDB&M, AND DOMESTIC AND INDUSTRIAL USES AND IRRIGATION OF 30 ACRES  
NET WITHIN A GROSS AREA OF 150 ACRES DESCRIBED AS FOLLOWS AND AS  
SHOWN ON MAP FILED WITH STATE WATER RESOURCES CONTROL BOARD:

NE $\frac{1}{4}$ OF SE $\frac{1}{4}$ ,	PROJECTED SECTION 18, T9N, R5W, MDB&M, 10 ACRES
SE $\frac{1}{4}$ OF SE $\frac{1}{4}$ ,	PROJECTED SECTION 18, T9N, R5W, MDB&M, 30 ACRES
SW $\frac{1}{4}$ OF SE $\frac{1}{4}$ ,	PROJECTED SECTION 18, T9N, R5W, MDB&M, 8 ACRES
NW $\frac{1}{4}$ OF NE $\frac{1}{4}$ ,	PROJECTED SECTION 19, T9N, R5W, MDB&M, 20 ACRES
NE $\frac{1}{4}$ OF NE $\frac{1}{4}$ ,	PROJECTED SECTION 19, T9N, R5W, MDB&M, 35 ACRES
NW $\frac{1}{4}$ OF NW $\frac{1}{4}$ ,	PROJECTED SECTION 20, T9N, R5W, MDB&M, 25 ACRES
SW $\frac{1}{4}$ OF NW $\frac{1}{4}$ ,	PROJECTED SECTION 20, T9N, R5W, MDB&M, 10 ACRES
SW $\frac{1}{4}$ OF SW $\frac{1}{4}$ ,	PROJECTED SECTION 17, T9N, R5W, MDB&M, 12 ACRES

  
R. L. ROSENBERGER, Chief  
Division of Water Rights

Dated: APR 24 1975

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STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 14392

PERMIT 8814

LICENSE 5435

THIS IS TO CERTIFY, That

Gordon R. Kirkpatrick  
Pope Valley  
California

Notice of Assignment (Over)

has made proof as of October 9, 1956  
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of  
an unnamed creek in Napa County

tributary to Burton Creek thence Pope Creek

for the purpose of irrigation, domestic, stockwatering, industrial and recreational uses under Permit 8814 of the State Water Rights Board and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from July 16, 1951 and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed sixteen (16) acre-feet per annum to be collected from about November 1 of each year to about March 31 of the succeeding year.

Maximum withdrawal in any one year has been 16 acre-feet.

The point of diversion of such water is located:

South one hundred twenty-two (122) feet and east four hundred seventy-five (475) feet from NW corner of projected Section 20, T9N, R5W, MDB&M, being within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said projected Section 20.

A description of the lands or the place where such water is put to beneficial use is as follows:

Domestic, stockwatering, industrial and recreational uses within NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , NW $\frac{1}{4}$  of NE $\frac{1}{4}$  and irrigation of 2 acres within N $\frac{1}{2}$  of NW $\frac{1}{4}$  of projected Section 20, T9N, R5W, MDB&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated:

JAN 28 '59

L. K. Hill  
L. K. Hill  
Executive Officer

4-17-64 RECEIVED NOTICE OF ASSIGNMENT TO

Ralph & Patricia

Surgeon

4/21/69 RECEIVED NOTICE OF ASSIGNMENT TO

Clara M.

7-6-78 Assign to Lynn & Joyce (week) Ronald L. McGowan  
11-1-79 Assign to Lynn & Joyce (week) Ronald L. McGowan  
5-22-85 Assign to El Rancho, Inc. & Calif Corp. (Ent of Ronald L. McGowan)

LICENSE 5435

STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

LICENSE  
TO APPROPRIATE WATER

ISSUED TO Gordon R. Kirkpatrick

JAN 28 '59

DATED

72849 3-58 2M ① SPO